



[Billing Code 3290-F9]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2019-0014]

Agency Information Collection Activities; Request for Comments - Renewal of the Collection of Information Titled '301 Exclusion Requests'

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) invites comments on an existing information collection request (ICR) titled *301 Exclusion Requests*. USTR plans to ask the Office of Management and Budget (OMB) to renew approval of the ICR for three years under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations.

DATES: Submit comments no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION].

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov>. See the submission instructions below. The Docket Number is USTR-2019-0014. For alternatives to on-line submissions, please contact the Section 301 hotline at (202) 395-5725 before transmitting a comment and in advance of the deadline.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

A. Comments

Submit written comments and suggestions addressing one or more of the following four points:

- (1) Whether the ICR is necessary for the proper performance of USTR's functions, including whether the information will have practical utility.
- (2) The accuracy of USTR's estimate of the burden of the ICR, including the validity of the methodology and assumptions used.
- (3) Ways to enhance the quality, utility, and clarity of the ICR.
- (4) Ways to minimize the burden of the ICR on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

B. Overview of This Information Collection

Title: 301 Exclusion Requests.

OMB Control Number: 0350-0015, which expires on December 31, 2019.

Form Number(s): 301 Exclusion Request/Response/Reply Form.

Description: Following a comprehensive investigation, the U.S. Trade Representative determined that the Government of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation were actionable under section 301(b) of the Trade Act of 1974 (19 U.S.C. 2411(b)). The U.S. Trade Representative determined that appropriate action to obtain the elimination of these acts, policies, and practices included the imposition of additional *ad valorem* duties on products from China classified in certain enumerated subheadings of the Harmonized Tariff Schedule of the United States (HTSUS). For background on the proceedings in this investigation, please

see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), and 83 FR 49152 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), and 84 FR 21389 (May 9, 2019).

On May 15, 2019, USTR submitted a request to OMB for emergency processing of this ICR. USTR reviewed the six submissions in response to the notice requesting comments (84 FR 23145). Five comments expressed concerns regarding the ability to designate and protect business confidential information (BCI); three requested that the ICR provide additional guidance or clarification; two asked for an expedited review process; two requested that the ICR take into account additional information; two commented with respect to the burden estimate; two requested certain questions be removed; and one indicated the ICR should better indicate whether a particular field was required.

In light of the comments and in further consideration of the issues, USTR published FAQs covering a wide range of topics pertaining to the exclusions process and made changes to the ICR. The changes included updates to section one - 'Submitter Information' - to include 'country' as a field, and to add a question to determine if the requestor meets the size standards for a small business established by the Small Business Administration. Other changes included designations to each field of the ICR to indicate whether the field is required and if the field is for BCI or public information.

OMB approved the emergency processing request on June 20, 2019, and assigned Control Number 0350-0015, which expires on December 31, 2019.

On June 24, 2019 (84 FR 29576), the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products classified within a covered tariff subheading from the additional duties that went into effect on September 24, 2018, and May 10, 2019. Requests for exclusion have to identify a particular product and provide supporting data and the rationale for the requested exclusion. Within 14 days after USTR posts a request for exclusion, interested persons can provide a response with the reasons they support or oppose the request. Interested persons can reply to the response within seven days after it is posted.

On June 30, 2019, USTR opened an electronic portal for submission of exclusion requests - <http://exclusions.ustr.gov> - using the approved ICR. The deadline for submitting requests is September 30, 2019. A reproduction of the form used on the portal is attached as an annex to this notice.

Affected Public: U.S. stakeholders who want to request, or comment on a request, to exclude particular products from the additional duties on products from China classified in certain enumerated subheadings of the HTSUS.

Frequency of Submission: One submission per request, response, or reply.

Respondent Universe: U.S. stakeholders.

Reporting Burden:

Total Estimated Responses: 60,000 requests to exclude a particular product; 7,000 responses to a product exclusion request; and 3,000 replies to a response.

Total Estimated Annual Burden: USTR has revised this burden estimate in accordance with comments received in response to the emergency processing notice. USTR estimates that preparing and submitting a request to exclude a particular product will take approximately 120 minutes and will cost about \$200 per submission. The total time burden for requests is 120,000 hours and the estimated total cost is \$12,000,000.

USTR estimates that preparing and submitting a response to a product exclusion request will take approximately 60 minutes, and will cost about \$100 per submission. The total time burden for responses is approximately 7,000 hours at an estimated total cost of \$700,000.

USTR estimates that preparing and submitting a reply will take approximately 30 minutes, and will cost about \$50 per submission. The total time burden for replies is approximately 1,500 hours and the estimated total cost is \$150,000.

USTR estimates that the cost to the Federal government to evaluate each request, and response or reply, if any, is 2.5 hours, for a total time burden of 175,000 hours at an estimated total cost of \$9,700,000. The \$9.7 million total cost estimate includes the average annual salary plus benefits, for the federal employees and contractors expected to work on the exclusion process. USTR estimates that it will take approximately one year to complete the process.

Status: After reviewing comments received in response to this notice, under the PRA and its implementing regulations, USTR plans to submit a request to OMB to renew approval of the ICR for three years.

C. Requirements for Submissions

You must submit written comments by the deadline set forth in this notice. You must make all submissions in English via <http://www.regulations.gov>, using Docket Number USTR-2019-0014. USTR will not accept hand-delivered submissions. To make a submission using <http://www.regulations.gov>, enter the appropriate docket number in the 'search for' field on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'filter results by' section on the left side of the screen and click on the link entitled 'comment now.' The regulations.gov website offers the option of providing comments by filling in a 'type comment' field or by attaching a document using the 'upload file(s)' field. USTR prefers that you provide submissions in an attached document and note 'see attached' in the 'type comment' field on the online submission form. Include any data attachments to the submission in the same file as the submission itself, and not as separate files.

You will receive a tracking number upon completion of the submission procedure at <http://www.regulations.gov>. The tracking number is confirmation that regulations.gov received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for the website. USTR may not consider documents you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact the Section 301 hotline at (202) 395-5725 before transmitting a comment and in advance of the deadline. General information concerning USTR is available at www.ustr.gov.

Janice Kaye,
Chief Counsel for Administrative Law.

Annex

Exclusion Request Form

1. Submitter Information

Full Organization Legal Name * **(Public)**

Requestor First Name * **(BCI)**

Requestor Last Name * **(BCI)**

Requestor Mailing Address

Street Address Line 1 * **(BCI)**

Street Address Line 2 **(BCI)**

City * **(BCI)**

State * **(BCI)**

Zip Code * **(BCI)**

Country * **(BCI)**

Requestor E-mail Address * **(BCI)**

Requestor Phone Number * **(BCI)**

Does your business meet the size standards for a small business as established by the Small Business Administration? * **(Public) YES/NO**

Are you a third party, such as a law firm, trade association, or customs broker, submitting on behalf of an organization or industry? * **(Public) YES/NO**

*Note: If you are submitting on behalf of an organization/industry, the information below is required.

Third Party Firm/Association Name **(Public)**

Third Party First Name **(BCI)**

Third Party Last Name **(BCI)**

Third Party Mailing Address

Street Address Line 1 **(BCI)**

Street Address Line 2 **(BCI)**

City **(BCI)**

State **(BCI)**

Zip Code **(BCI)**

Country (BCI)

Third Party E-mail Address (BCI)

Third Party Phone Number (BCI)

Who is your importer of record? (BCI)

Who will be the primary point of contact? (Select One) * (BCI)

- ☐ Requestor
- ☐ Third Party Submitter
- ☐ Requestor and Third Party Submitter

2. **Please provide the 10-digit HTSUS item number* for the product you wish to address in this product exclusion request. A 10-digit HTSUS number is required. * (Public)**

*Use numerical characters only with no special characters (Example: 1023456789). For help with finding the HTSUS item number associated with your product, see <https://hts.usitc.gov/>.

3. **Please provide a complete and detailed description of the particular product of concern.* (A detailed description of the product includes, but is not limited to, its physical characteristics (e.g., dimensions, weight, material composition, etc.), whether product is designed to function in or with a particular machine (application), and any unique physical features that distinguish it from other products within the covered 8-digit HTSUS subheading. If needed, please attach images and specification sheets, CBP rulings, court decisions, and previous import documentation below.) Please also describe the product's principal use.**

*USTR will not consider requests that identify the product using criteria that cannot be made available to the public. USTR will not consider requests in which more than one unique product is identified.

Product Name * (Public)

Product Description (e.g. dimensions, weight, material composition, etc.) * (Public)

Product Function, Application, and Principal Use (Public)

Please upload any relevant attachments that will help identify and distinguish your product (e.g. CBP rulings, photos and specification sheets, and previous import documentation) (Public)

4. **Requestor's relationship to the product (select all that apply) * (Public)**
- ☐ Importer
 - ☐ U.S. Producer

- Purchaser
- Industry Association
- Other

5. **Is this product, or a comparable product, available from sources in the United States? (If you indicate “NO” or “NOT SURE,” in the box below, you must explain why the product is unavailable or why you are unsure of the product’s availability.)** * (Public)

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product’s availability. (Submitter Determines BCI or Public)

6. **Is this product, or a comparable product, available from sources in third countries? (If you indicate “NO” or “NOT SURE,” in the box below, you must explain why the product is unavailable or why you are unsure of the product’s availability.)** * (Public)

- YES
- NO
- NOT SURE

Please explain why the product is unavailable or why you are unsure of the product’s availability. (Submitter Determines BCI or Public)

7. **Please discuss any attempts to source this product from United States or third countries.** * (Public)

8. **Please provide the value in USD and quantity (with units) of the Chinese-origin product of concern that you purchased in 2017, 2018, and the first quarter of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable.** * (BCI)

2017 Value:

2017 Quantity:

2018 Value:

2018 Quantity:

2019 Q1 Value:

2019 Q1 Quantity:

Are the provided figures estimates?: * (BCI) YES/NO

Are any of these purchases from a related company? * (BCI) YES/NO

Please list the name and relationship of the related company. (BCI)

9. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from any third-country source in 2017, 2018, and the first quarter of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. * (BCI)

2017 Value:	2017 Quantity:
2018 Value:	2018 Quantity:
2019 Q1 Value:	2019 Q1 Quantity:

Are the provided figures estimates?: * (BCI) YES/NO

10. Please provide the value in USD and quantity (with units) of the product of concern that you purchased from domestic sources in 2017, 2018, and the first quarter of 2019. Limit this figure to the products purchased by your firm (or by members of your trade association). Please provide estimates if precise figures are unavailable. * (BCI)

2017 Value:	2017 Quantity:
2018 Value:	2018 Quantity:
2019 Q1 Value:	2019 Q1 Quantity:

Are the provided figures estimates?: * (BCI) YES/NO

11. Please provide information regarding your company's gross revenue in USD for 2018, the first quarter of 2018, and the first quarter of 2019. * (BCI)

Fiscal Year 2018:
First Quarter 2018:
First Quarter 2019:

Are the provided figures estimates?: * (BCI) YES/NO

12. Is the Chinese-origin product of concern sold as a final product or as an input used in the production of a final product or products? * (Public)

a) For imports sold as final products, please provide: (BCI)

% of your company's total, U.S. gross sales in 2018 that the Chinese-origin product accounted for.

b) For imports of inputs used in the production of final products, please provide: (BCI)

% of the total cost of producing the final product(s) the Chinese-origin input accounts for.

% of your company's total, U.S. gross sales in 2018 that sales of the final product(s) incorporating the input accounts for.

- 13. Please comment on whether the imposition of additional duties (since September 2018) on the product you are seeking to exclude has resulted in severe economic harm to your company or other U.S. interests. * (BCI)**
- 14. Please provide any additional information in support of your request, taking account of the instructions provided in Section [B] of the Federal Register notice. (Submitter Determines BCI or Public)**
- 15. Did you submit exclusion requests for the Section 301 \$34 billion (Docket ID: USTR-2018-0025) and/or the \$16 billion (Docket ID: USTR-2018-0032) tariff actions? * (Public) YES/NO**
- Please enter the total value of your company's imports applicable to the tariff action for which you submitted one or more exclusion request: (BCI)**
- Initial \$34 Billion Tariff Action:
- Additional \$16 Billion Tariff Action:
- 16. Please comment on whether the particular product of concern is strategically important or related to "Made in China 2025" or other Chinese industrial programs. You must explain in the box below why you believe the product of concern is or is not strategically important or related to "Made in China 2025" or other Chinese industrial programs. * (Public)**
- 17. Include any additional attachments that should be considered along with this exclusion request (e.g., customs rulings, court decisions, previous import documentation, etc.). Please do not include attachments that contain your written argument. (Submitter Determines BCI or Public)**

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